

Vivian Shevitz  
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April 21, 2014

Hon. Richard J. Sullivan  
United States District Judge  
Southern District of New York  
40 Centre Street  
New York, New York 10007

Re: SEC v. Amerindo, 05 cv5231- Response to Receiver DOC 422

Dear Judge Sullivan,

I write in connection with Ian Gazes' "additional submission" of April 18, 2014 (DOC 422 and its exhibits) concerning the SEC's attempts to get distributions to Amerindo Panama investors, as well as his response to former Amerindo CFO and COO David Mainzer's inquiry about the status of the U.S. Pension Fund account, in which he and other former Amerindo U.S. employees who lost their jobs in 2005 had an interest.

1. Mr. Mainzer wrote to Mr. Gazes (with a cc to myself, the Court, and others) explaining that he had an investment in the "Amerindo Master Venture Fund, LLC", which was custodied at Bear Stearns and was among the accounts seized in 2005. Mr. Mainzer stated he had written to Gazes LLC twice to ask about this, in December 2013 and March 2014 – and had "yet to receive any response." He asked whether there was "anyone willing to look into whether anything owed to Amerindo's former employees on account of their investment" in the Master Venture Fund" account.

Mr. Gazes wrote back almost immediately: "As previously advised the account you reference below has a zero balance." That is only half the story.

Although JP Morgan has refused to give defendants any account statements voluntarily, when it (reluctantly) responded to a subpoena, it produced an account statement for the Amerindo Master Venture Fund LLC account statement (among a few other accounts), this one for the period ending February 29, 2012. The account statement (attached) shows that, *until* February 2012, the account had a balance of \$26,613.00 (again, having gained no interest from its seizure by Bear Stearns in 2005 – although according to the account statement, there was \$26,612.52 was "eligible" for the "cash/sweep" program that JP Morgan chose to ignore.)

As far as we can tell, JP Morgan simply – and effectively – *stole* this property. On February 21, 2012 – just around the time Your Honor and Judge Swain were convening a joint

inquiry in the SEC and criminal case (see DOC 514, government response to Courts' February 7, 2012 order in combined case) -- JP Morgan "abandoned" the account, and debited \$26,512.52 by journal entry to "abandoned property" -- leaving the zero balance. (This is but one of the accounts "abandoned" by action of JP Morgan *after* inquiry was made into the assets and claims by this Court. An account statement for the period February 1 -- 28, 2013, for the Amerindo Investment Advisors Money Purchase Plan, account 102-25612, states that this was "abandoned property" -- but shows a total of \$35,343 remaining in the account. Apparently JP Morgan had not (yet) effectively stolen this property.)

We advised Mr. Gazes many times about the "abandoned" property. Sadly he has done nothing (at least nothing we know of) to maximize the accounts for their owners. Former Amerindo employees should be entitled to their pensions. They, too, have been hurt in this case.

2. Mr. Gazes seems to have done further unnecessary and mysterious work in connection with his most recent submission. Thus, he commissioned additional research time in some more account methodology in calculating, without our knowledge or approval, supposed Amerindo Panama 'fees'—but the period covered by his analysis is after the *de facto freeze* in 2005 through 2013. Defendants do not and did not claim any fees for this period -- since the offshore assets ceased to be managed after this point. The fees claimed by defendants were and are the residual assets -- the result of PAST fees for the management of numerous assets and their reinvestment over the years in Amerindo's universe of emerging growth stocks. (For instance, the Rhodes investment earned over 700% for its investors, including Lily Cates; management fees were not taken but remained in the Panama accounts). We have no idea why he conjured up a fee calculation for the period 2005-2013.

3. Mr. Gazes has also spent a lot of time, it seems, creating "charts" based on proposals for payouts advanced by investor Paul Marcus. We question why one investor should have so much authority and why the Receiver is undertaking work on his behalf. Other investors do not have high-power lawyers, but also have serious objections to Mr. Gazes' and the SEC's recommendations.

At the same time Mr. Gazes has been doing the work of Paul Marcus' attorney, he has completely ignored accounts of several "smaller" investors, about whom we informed him -- and quite recently -- the SEC attorneys. Investors not contacted by Mr. Gazes, though appearing on Sharon Levin's list and noted on our payout proposal in July 2012 include: three sisters, Jacqueline Gaztambide, Annette Acevedo, and Ana Acevedo; Jenny Zanzuri; Maria Dichov; and Angelika Hrytsyk-Tolik Prvlovskyy (in Ukraine). Defendants believe they have valid claims. I told the SEC lawyers that if needed, we could find contact information -- but seemingly the information is in the Amerindo Panama files, where Sharon Levin obtained the names and amounts (per her DOC 514, government response to the combined Courts' request that the government and SEC set forth claims and assets). Further, Mr. Gazes refuses to recognize Ms. Knope's investment, though it, like other former Rhodes investors, went seamlessly from Rhodes investments to fixed deposit accounts. (Lily Cates insisted on calling her investment by the previous name, "Rhodes", for whatever her reasons. It was accounted for under the name "Rhodes" on her account statements, but became a fixed deposit as did the other former Rhodes investors who did not withdraw their funds after Rhodes wound down)). These people with

legitimate claims should be recognized.

4. Mr. Gazes has also spent time advancing JP Morgan's claims for custodial and attorneys fees. As to custodial fees, Mr. Gazes has forwarded JP Morgan claims with *redactions*, so that we cannot even *see* the matters for which JP Morgan thinks it entitled to payment.

As to custodial fees, I am told, Bear Stearns did not previously even charge custodial fees. This is a "unilateral" change on its part. Mr. Gazes embraces it.

Mr. Gazes should, we submit, be pushing back against JP Morgan's refusal to pay interest even now. At the hearing on 14 March 2014, JP Morgan's counsel Andrea Weiss took the position that JP Morgan will evidently not pay ANY interest whenever Fed Funds rates are at, or below 50 basis points (one-half of one percent). This, however, was not in the contracts between Bear Stearns and Amerindo, upon which JP Morgan (and Mr. Gazes) rely for their attempt to get payment of attorneys' fees. Moreover, Mr. Gazes should have, and should, direct JP Morgan to sweep Amerindo client funds into an overnight money market fund (such as Dreyfus Liquid Assets in the Amerindo U.K. Pension Plan), as had been done in the past.

JP Morgan continues to accrue interest for itself, to the detriment of the offshore portfolio assets.

5. JP Morgan has in fact hijacked this case, and has been the *de facto* mis-manager of the assets. First it froze the funds in 2005. This resulted in the \$1 ¾ million depreciation in the account through the end of 2009, noted in the Ross report submitted prior to the prior sentencing. Then JP Morgan stopped paying interest. It refused to send us account statements. It deemed "live" accounts "abandoned" and took the funds, and interest, for itself. It failed to allow for management of the account despite the strong rising market. Defendants' historical ability to profit in such a market have been discussed repeatedly.

Lately, JP Morgan's made another account management decision, opting to give counsel for the UK Pension fund account statements (though it has denied defendants' repeated requests to give them (me) account statement as well – and to explain why account statements have been directed to "Michael R. Fields, at a Cititrust Bahamas Ltd." on a number of accounts, including ATGF Ltd. and the UK Pension Fund account. Defendants never authorized such transfer of accounts to any Bahama account holder. There has been complete silence from JP Morgan and from the Receiver as to this mysterious and unexplainable transfer by JP Morgan.

JP Morgan seemingly makes the decisions to do what it wants with the accounts as if the owner (or at least the *de facto* manager):

**From:** Andrea L. Weiss [<mailto:aweiss@llf-law.com>]

**Sent:** Tuesday, April 15, 2014 9:38 AM

**To:** 'justin.anderson@usdoj.gov'; 'Jacobson, Neal'; Webster, James M. ([jwebster@khhte.com](mailto:jwebster@khhte.com)); Vivian Shevitz ([vivian@shevitzlaw.com](mailto:vivian@shevitzlaw.com))

**Cc:** Adam D. Weiss; Elissa Shane

**Subject:** Amerindo UK Pension Scheme

On behalf of James Stableford, Mr. Webster has requested account statements for the UK Pension Scheme account. Mr. Webster advised me last week that neither the government nor any person claiming an interest in that account objects to J.P. Morgan producing those statements to Mr. Webster. Unless I hear to the contrary today from any of you, the statements will be produced.

Thank you,  
Andrea Likwornik Weiss  
Levi Lubarsky & Feigenbaum LLP  
1185 Avenue of the Americas, 17th Floor  
New York, New York 10036  
Tel: (212) 308-6100  
Fax: (212) 308-8830  
[aweiss@llf-law.com](mailto:aweiss@llf-law.com)  
[www.llf-law.com](http://www.llf-law.com)

Never mind that defendants' prior lawyer should have countered this long ago—which is true. Regardless, Ian Gazes should be holding JP Morgan responsible for mismanagement now, under 28 U.S.C. § 959.<sup>1</sup> If he will not do it, then he should be responsible too. Defendants and the Amerindo clients being deprived of interest and have had accounts effectively stolen through being “abandoned” when the Courts were inquiring about them. Defendants and the investors should have a remedy for JP Morgan's mismanagement as against it and Mr. Gazes as well.

Very truly yours,

/s/

Vivian Shevitz

Attached: JP Morgan Account statements Amerindo Master Venture Fund  
And Money Purchase Plan

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<sup>1</sup> 28 U.S. Code § 959 - Trustees and receivers suable; management; State laws

(a) Trustees, receivers or managers of any property, including debtors in possession, may be sued, without leave of the court appointing them, with respect to any of their acts or transactions in carrying on business connected with such property. Such actions shall be subject to the general equity power of such court so far as the same may be necessary to the ends of justice, but this shall not deprive a litigant of his right to trial by jury.

(b) Except as provided in section 1166 of title 11, a trustee, receiver or manager appointed in any cause pending in any court of the United States, including a debtor in possession, shall manage and operate the property in his possession as such trustee, receiver or manager according to the requirements of the valid laws of the State in which such property is situated, in the same manner that the owner or possessor thereof would be bound to do if in possession thereof.

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New York, New York 10179  
(212) 270-6000

## AMERINDO MASTER VENTURE

Month End Closing Method: FIFO

STATEMENT PERIOD	February 1, 2012
THROUGH	February 29, 2012
ACCOUNT NUMBER	102-25590 M0T
TAXPAYER NUMBER	On File
LAST STATEMENT	December 30, 2011

AMERINDO MASTER VENTURE  
FUND LLC  
ABANDONED PROPERTY NY 05/08  
STATEMENT & CONFIRM NY1-H054  
3 CHASE METROTECH CENTER  
C/O OFFICE 99999

## What's In This Statement

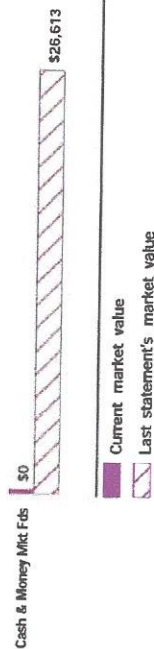
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## Your Portfolio at a Glance

NET EQUITY THIS PERIOD	\$0
NET EQUITY LAST STATEMENT	26,613
CHANGE SINCE LAST STATEMENT	-26,613

There are no "Stop Loss" orders or other pending buy or sell open orders on file for your account.

## Market Value of Your Portfolio



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3 CHASE METROTECH CENTER, BROOKLYN, NY 11245

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AMERINDO MASTER VENTURE

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## AMERINDO MASTER VENTURE

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STATEMENT PERIOD February 1, 2012  
THROUGH February 29, 2012  
ACCOUNT NUMBER 102-25590 MOT  
TAXPAYER NUMBER On File  
LAST STATEMENT December 30, 2011

### Portfolio Value

Assets	THIS PERIOD	LAST PERIOD
Net Credit Balance	0.00	26,612.52
Total Assets	\$0.00	\$26,612.52
NET PORTFOLIO VALUE	\$0.00	\$26,612.52

### Cash Flow Analysis

	THIS PERIOD	THIS YEAR
Opening Cash/Sweep Prog.	\$26,612.52	\$26,612.52
Miscellaneous (Debit)	-26,612.52	-26,612.52
Amount Debited	\$-26,612.52	\$-26,612.52
Net Cash/Sweep Prog. Act.	-26,612.52	-26,612.52
Closing Cash/Sweep Prog.	\$0.00	\$0.00



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STATEMENT PERIOD February 1, 2012  
THROUGH February 29, 2012

ACCOUNT NUMBER 102-25590 MOT  
TAXPAYER NUMBER On File  
LAST STATEMENT December 30, 2011

## Transaction Detail

### INVESTMENT ACTIVITY

SETTLEMENT DATE	TRADE DATE	TRANSACTION	DESCRIPTION	SYMBOL/USIP	QUANTITY	PRICE	DEBIT AMOUNT	CREDIT AMOUNT
02/21/12		JOURNAL	ZAMBEEL INC SER B-2 PFD RSTD ABANDONED PROPERTY	9305937	-7,406			
02/21/12		JOURNAL	3PARDATA INC SER A-3 PFD RSTD ABANDONED PROPERTY	9306077	-8,025			
02/21/12		JOURNAL	3PARDATA INC SER A-2 PFD RSTD ABANDONED PROPERTY	9306080	-1,975			
02/21/12		JOURNAL	CALIENT NETWORKS INC SERIES A-1 PFD RSTD ABANDONED PROPERTY	9310150	-737			
02/21/12		JOURNAL	SEECOMMERCE SERIES E PFD RSTD ABANDONED PROPERTY	9311336	-637,841			
02/21/12		JOURNAL	AXSUN TECHNOLOGIES INC SER C CV PFD RSTD ABANDONED PROPERTY	9311432	-2,600			
02/21/12		JOURNAL	CODEON CORP SER-D CV PFD-RSTD ABANDONED PROPERTY	9311548	-2,000			
02/21/12		JOURNAL	MYCFO INC SER C PFD RSTD ABANDONED PROPERTY	9311669	-15,000			
02/21/12		JOURNAL	MOBILIAN CP SER C PFD RSTD ABANDONED PROPERTY	9380651	-7,500			
02/21/12		JOURNAL	ULTRABAND FIBER OPTICS INC SER C PFD RSTD ABANDONED PROPERTY	9381559	-24,691			



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STATEMENT PERIOD February 1, 2012  
THROUGH February 29, 2012  
ACCOUNT NUMBER 102-25590 MOT  
TAXPAYER NUMBER On File  
LAST STATEMENT December 30, 2011

## Transaction Detail (continued)

### MISCELLANEOUS

DATE	TRANSACTION	DESCRIPTION	DEBIT AMOUNT	CREDIT AMOUNT
02/21/12	JOURNAL	ABANDONED PROPERTY	26,612.52	
TOTAL MISCELLANEOUS(DEBIT)			\$-26,612.52	

## Your messages



**Important Information For Clients Holding Restricted Securities:**  
Restricted Securities (typically noted as "Restricted" or "RSTD" in the security description) have not been registered under the Securities Act of 1933 and may not be "freely traded." Since restricted securities are subject to certain restrictions which may render them illiquid or less liquid than freely-tradeable shares, there can be no assurance a secondary market exists. While we typically use the value of the registered/unrestricted security of the same issuer and same class for statement (and other) reporting purposes, the price realizable in a sale of the securities may be less than the "Market Value" indicated and could be zero. No attempt has been made to independently value the specific security subject to its restriction. Additionally, inclusion of pricing of these holdings will result in the aggregated value of your portfolio as reflected on this report being overstated by an amount equal to the difference (if any) between the value of the freely-traded underlying security and the actual value of your restricted shares. For additional information on pricing, please see "Market Prices" on the back of your account statement.



Please report any difference or non-receipt of checks or stocks, indicated as delivered to you, to Client Services at 800-634-1428; or write to Client Services at J.P. Morgan Clearing Corp. Three Chase Metrotech Center, Brooklyn, N.Y. 11245-0001

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## Your messages (continued)



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STATEMENT PERIOD	February 1, 2012
THROUGH	February 29, 2012
ACCOUNT NUMBER	102-25590 MOT
TAXPAYER NUMBER	On File
LAST STATEMENT	December 30, 2011



\*\*\*\*\* End of Statement \*\*\*\*\*

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AMERINDO INVESTMENT ADVISORS

## What's In This Statement

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AMERINDO INVESTMENT ADVISORS  
INC MONEY PURCHASE PLAN AND  
TRUST ALBERTO VILAR TTEE  
DTD 5/1/94  
ABANDONED PROPERTY NY 05/08  
C/O OFFICE 99999

Month End Closing Method: FIFO

STATEMENT PERIOD  
February 1 - February 28, 2013

ACCOUNT NUMBER  
102-25612 MOT  
LAST STATEMENT  
January 31, 2013

## Your Portfolio at a Glance

SWEEP PROGRAM BALANCE .....	35,343
NET EQUITY THIS PERIOD .....	\$35,343
NET EQUITY LAST STATEMENT .....	35,343
CHANGE SINCE LAST STATEMENT .....	0

There are no "Stop Loss" orders or other pending buy or sell open orders on file for your account.

## Market Value of Your Portfolio

Cash & Money Mkt Fds



☒ Current market value  
☐ Last statement's market value

CLEARING AGENT: J.P. MORGAN CLEARING CORP.  
3 CHASE METROTECH CENTER, BROOKLYN, NY 11245

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## Portfolio Value

	THIS PERIOD	LAST PERIOD
Assets		
Sweep Program/Money Mkt Fds	35,343.07	35,342.96
Total Assets	\$35,343.07	\$35,342.96
NET PORTFOLIO VALUE	\$35,343.07	\$35,342.96

## Cash Flow Analysis

	THIS PERIOD	THIS YEAR
Opening Cash/Sweep Prog.	\$35,342.96	\$35,342.02
Sweep Program Div/Int	0.11	1.05
Amount Credited	\$0.11	\$1.05
Net Cash/Sweep Prog. Act.	0.11	1.05
Closing Cash/Sweep Prog.	\$35,343.07	\$35,343.07

## Income Summary

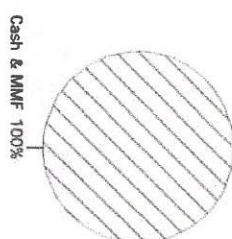
	THIS PERIOD	YEAR TO DATE
Dividends	0.11	0.11
Total	\$0.11	\$0.11

## AMERINDO INVESTMENT ADVISORS

STATEMENT PERIOD  
February 1 - February 28, 2013

ACCOUNT NUMBER  
102-25612 MOT  
LAST STATEMENT January 31, 2013

## Your Portfolio Allocation



Unshaded portions denote debt balance and/or short market values. The allocation percentage is derived from the allocate market value of your portfolio.



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## Your Portfolio Holdings

### CASH & MONEY MARKET FUNDS

DESCRIPTION	TYPE	SYMBOL/CUSIP	QUANTITY	PRICE	MARKET VALUE	ESTIMATED ANNUAL INCOME	ESTIMATED YIELD (%)
DREYFUS LIQUID ASSETS INC CL 2 SHS	CASH	DLATX	35,343.07	1.0000	35,343		
EST. 30 DAY AVG YIELD .0100%							
<b>TOTAL CASH &amp; MONEY MARKET FUNDS</b>					<b>\$35,343</b>		<b>\$0</b>

### YOUR PRICED PORTFOLIO HOLDINGS

\$35,343

## Transaction Detail

### SWEEP PROGRAM ACTIVITY

DATE MO/DAY	TRANSACTION	DESCRIPTION	SYMBOL/CUSIP	QUANTITY	PRICE	DEBIT AMOUNT	CREDIT AMOUNT
02/01/13		OPENING BALANCE		35,342.96			
02/01/13	DIVIDEND	DREYFUS LIQUID ASSETS INC CL 2 SHS MONTHLY DIVIDEND	DLATX				0.11
02/01/13	REINVEST	DREYFUS LIQUID ASSETS INC CL 2 SHS DIVIDEND REINVEST	DLATX	0.11		0.11	
02/28/13		CLOSING BALANCE		35,343.07			
<b>SWEEP PROGRAM DIVINT</b>							<b>\$0.11</b>
<b>NET SWEEPING ACTIVITY</b>						<b>\$-0.11</b>	

STATEMENT PERIOD  
February 1 - February 28, 2013

ACCOUNT NUMBER  
102-25612 MOT  
LAST STATEMENT January 31, 2013



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## Your messages



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## AMERINDO INVESTMENT ADVISORS

STATEMENT PERIOD  
February 1 - February 28, 2013

ACCOUNT NUMBER  
102-25612 MOT

LAST STATEMENT January 31, 2013

# J.P.Morgan

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New York, New York 10179  
(212) 270-6000

## AMERINDO INTERNET GROWTH FUND

### What's In This Statement

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AMERINDO INTERNET GROWTH FUND  
LTD  
C/O CITIRUST (BAHAMAS) LTD  
ATTN: MICHAEL R FIELDS  
PO BOX N 1576-THOMPSON BLVD  
MASSAU BAHAMAS

Month End Closing Method: FIFO

STATEMENT PERIOD April 1, 2011  
THROUGH April 29, 2011

ACCOUNT NUMBER 102-27950 MOT  
TAXPAYER NUMBER Not Applicable  
LAST STATEMENT March 31, 2011

### Your Portfolio at a Glance

NET EQUITY THIS PERIOD \$0  
NET EQUITY LAST STATEMENT 14,768,967  
CHANGE SINCE LAST STATEMENT -14,768,967  
There are no "Stop Loss" orders or other pending buy or sell open orders on file for your account.

### Market Value of Your Portfolio

Cash & Money Mkt Fds \$0  
\$14,768,967

☒ Current market value  
☐ Last statement's market value

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